

the dividends are considered to be income to the purchaser.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6777, 29 FR 17807, Dec. 16, 1964]

§ 1.61-10 Alimony and separate maintenance payments; annuities; income from life insurance and endowment contracts.

(a) *In general.* Alimony and separate maintenance payments, annuities, and income from life insurance and endowment contracts in general constitute gross income, unless excluded by law. Annuities paid by religious, charitable, and educational corporations are generally taxable to the same extent as other annuities. An annuity charged upon devised land is taxable to the donee-annuitant to the extent that it becomes payable out of the rents or other income of the land, whether or not it is a charge upon the income of the land.

(b) *Cross references.* For the detailed rules relating to—

(1) Alimony and separate maintenance payments, see section 71 and the regulations thereunder;

(2) Annuities, certain proceeds of endowment and life insurance contracts, see section 72 and the regulations thereunder;

(3) Life insurance proceeds paid by reason of death of insured, employees' death benefits, see section 101 and the regulations thereunder;

(4) Annuities paid by employees' trusts, see section 402 and the regulations thereunder;

(5) Annuities purchased for employee by employer, see section 403 and the regulations thereunder.

§ 1.61-11 Pensions.

(a) *In general.* Pensions and retirement allowances paid either by the Government or by private persons constitute gross income unless excluded by law. Usually, where the taxpayer did not contribute to the cost of a pension and was not taxable on his employer's contributions, the full amount of the pension is to be included in his gross income. But see sections 72, 402, and 403, and the regulations thereunder. When amounts are received from other types of pensions, a portion of the pay-

ment may be excluded from gross income. Under some circumstances, amounts distributed from a pension plan in excess of the employee's contributions may constitute long-term capital gain, rather than ordinary income.

(b) *Cross references.* For the inclusion of pensions in income for the purpose of the retirement income credit, see section 37 and the regulations thereunder. Detailed rules concerning the extent to which pensions and retirement allowances are to be included in or excluded from gross income are contained in other sections of the Code and the regulations thereunder. Amounts received as pensions or annuities under the Social Security Act (42 U.S.C. ch. 7) or the Railroad Retirement Act (45 U.S.C. ch. 9) are excluded from gross income. For other partial and total exclusions from gross income, see the following:

(1) Annuities in general, section 72 and the regulations thereunder;

(2) Employees' annuities, sections 402 and 403 and the regulations thereunder;

(3) References to other acts of Congress exempting veterans' pensions and railroad retirement annuities and pensions, section 122.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6856, 30 FR 13316, Oct. 20, 1965]

§ 1.61-12 Income from discharge of indebtedness.

(a) *In general.* The discharge of indebtedness, in whole or in part, may result in the realization of income. If, for example, an individual performs services for a creditor, who in consideration thereof cancels the debt, the debtor realizes income in the amount of the debt as compensation for his services. A taxpayer may realize income by the payment or purchase of his obligations at less than their face value. In general, if a shareholder in a corporation which is indebted to him gratuitously forgives the debt, the transaction amounts to a contribution to the capital of the corporation to the extent of the principal of the debt.

(b) *Proceedings under Bankruptcy Act.* (1) Income is not realized by a taxpayer by virtue of the discharge, under section 14 of the Bankruptcy Act (11

U.S.C. 32), of his indebtedness as the result of an adjudication in bankruptcy, or by virtue of an agreement among his creditors not consummated under any provision of the Bankruptcy Act, if immediately thereafter the taxpayer's liabilities exceed the value of his assets. Furthermore, unless one of the principal purposes of seeking a confirmation under the Bankruptcy Act is the avoidance of income tax, income is not realized by a taxpayer in the case of a cancellation or reduction of his indebtedness under—

(i) A plan of corporate reorganization confirmed under Chapter X of the Bankruptcy Act (11 U.S.C., ch. 10);

(ii) An "arrangement" or a "real property arrangement" confirmed under Chapter XI or XII, respectively, of the Bankruptcy Act (11 U.S.C., ch. 11, 12); or

(iii) A "wage earner's plan" confirmed under Chapter XIII of the Bankruptcy Act (11 U.S.C., ch. 13).

(2) For adjustment of basis of certain property in the case of cancellation or reduction of indebtedness resulting from a proceeding under the Bankruptcy Act, see the regulations under section 1016.

(c) *Issuance and repurchase of corporate bonds.* (1) If bonds are issued by a corporation at their face value, the corporation realizes no gain or loss.

(2) If, subsequent to February 28, 1913, bonds are issued by a corporation at a premium (as defined in subparagraph (4) of this paragraph), the net amount of such premium, excluding any portion thereof which is attributable to a conversion feature of the bond under paragraph (c) of § 1.171-2, is income which should be prorated or amortized over the life of the bonds. If bonds were issued by a corporation prior to March 1, 1913, at a premium, the net amount of such premium was income for the year in which the bonds were issued and should not be prorated or amortized over the life of the bonds.

(3) If bonds are issued by a corporation and are subsequently repurchased by the corporation at a price which is exceeded by the issue price plus any amount of discount already deducted, or (in the case of bonds issued subsequent to Feb. 28, 1913) minus any amount of premium already returned

as income, the amount of such excess is income for the taxable year.

(4) For purposes of this paragraph, bond premium equals the excess of the issue price of the bond (as defined in paragraph (b)(2) of § 1.1232-3) over the amount payable at maturity (or in the case of a callable bond, at the earlier call date).

(5) The provisions of this paragraph are illustrated by the following examples:

Example. (i) M Corporation, on January 1, 1946, the beginning of its taxable year, issued for \$115,000, 3 percent bonds, maturing 10 years from the date of issue, with a stated redemption price at maturity of \$100,000. The bonds were convertible into common stock at the option of the holder. The value of the conversion feature of the bonds, as determined under paragraph (c) of § 1.171-2, is \$11,500. The net amount, or amortizable portion, of bond premium which is included in income over the 10-year life of the bonds is \$3,500, computed as follows:

Issue price	\$115,000
Less: Redemption price	100,000
Premium	15,000
Value of conversion feature	11,500
Amortizable amount	3,500

(ii) On January 1, 1950, M Corporation repurchased all of the bonds for a total price of \$110,000. M Corporation thereby realized income for the taxable year 1950 in the amount of \$3,600, computed as follows:

Issue price	\$115,000
Less: Portion of original premium previously amortized, 1946-1949 ($\frac{4}{10} \times \$3,500$)	1,400
Repurchase price	113,600
	110,000
Income	3,600

(6) For purposes of this paragraph, a debenture, note, or certificate or other evidence of indebtedness, issued by a corporation and bearing interest shall be given the same treatment as a bond.

(7) For rules relating to amortization of bond discount and the deduction upon repurchase of bonds at an amount in excess of their issue price, see § 1.163-3.

(d) *Cross references.* For exclusion from gross income of—

(1) Income from discharge of indebtedness in certain cases, see sections 108 and 1017, and regulations thereunder;

(2) Forgiveness of Government payments to encourage exploration, development, and mining for defense purposes, see section 621 and regulations thereunder.

(e) *Cross reference.* For rules relating to the treatment of liabilities on the sale or other disposition of encumbered property, see § 1.1001-2.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6984, 33 FR 19174, Dec. 24, 1968; T.D. 7741, 45 FR 81745, Dec. 12, 1980]

§ 1.61-13 Distributive share of partnership gross income; income in respect of a decedent; income from an interest in an estate or trust.

(a) *In general.* A partner's distributive share of partnership gross income (under section 702(c)) constitutes gross income to him. Income in respect of a decedent (under section 691) constitutes gross income to the recipient. Income from an interest in an estate or trust constitutes gross income under the detailed rules of Part I (section 641 and following), Subchapter J, Chapter 1 of the Code. In many cases, these sections also determine who is to include in his gross income the income from an estate or trust.

(b) *Creation of sinking fund by corporation.* If a corporation, for the sole purpose of securing the payment of its bonds or other indebtedness, places property in trust or sets aside certain amounts in a sinking fund under the control of a trustee who may be authorized to invest and reinvest such sums from time to time, the property or fund thus set aside by the corporation and held by the trustee is an asset of the corporation, and any gain arising therefrom is income of the corporation and shall be included as such in its gross income.

§ 1.61-14 Miscellaneous items of gross income.

(a) *In general.* In addition to the items enumerated in section 61(a), there are many other kinds of gross income. For example, punitive damages such as treble damages under the anti-trust laws and exemplary damages for fraud are gross income. Another person's payment of the taxpayer's income taxes constitutes gross income to the taxpayer unless excluded by law. Ille-

gal gains constitute gross income. Treasure trove, to the extent of its value in United States currency, constitutes gross income for the taxable year in which it is reduced to undisputed possession.

(b) *Cross references.* (1) Prizes and awards, see section 74 and regulations thereunder;

(2) Damages for personal injury or sickness, see section 104 and the regulations thereunder;

(3) Income taxes paid by lessee corporation, see section 110 and regulations thereunder;

(4) Scholarships and fellowship grants, see section 117 and regulations thereunder;

(5) Miscellaneous exemptions under other acts of Congress, see section 122;

(6) Tax-free covenant bonds, see section 1451 and regulations thereunder.

(7) Notional principal contracts, see § 1.446-3.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6856, 30 FR 13316, Oct. 20, 1965; T.D. 8491, 58 FR 53127, Oct. 14, 1993]

§ 1.61-15 Options received as payment of income.

(a) *In general.* Except as otherwise provided in § 1.61-2(d)(6)(i) (relating to certain restricted property transferred after June 30, 1969), if any person receives an option in payment of an amount constituting compensation of such person (or any other person), such option is subject to the rules contained in § 1.421-6 for purposes of determining when income is realized in connection with such option and the amount of such income. In this regard, the rules of § 1.421-6 apply to an option received in payment of an amount constituting compensation regardless of the form of the transaction. Thus, the rules of § 1.421-6 apply to an option transferred for less than its fair market value in a transaction taking the form of a sale or exchange if the difference between the amount paid for the option and its fair market value at the time of transfer is the payment of an amount constituting compensation of the transferee or any other person. This section, for example, makes the rules of § 1.421-6 applicable to options granted in whole or partial payment for services of an independent contractor. If an